



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 17-4
BILL 48 (2016)

A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII

BE IT ORDAINED by the People of the City and County of Honolulu.

SECTION 1. Zoning Map No. 6 (Red Hill – Fort Shafter), Ordinance 86-109, is hereby amended as follows: Land situated at 3950 Paine Circle, Honolulu, Oahu, Hawaii, hereinafter described, is hereby rezoned from the F-1 Military and Federal Preservation District to the R-5 Residential District. The boundaries of said District shall be described as shown on the map attached hereto, marked "Exhibit A" and made a part hereof, and further identified as Tax Map Key: 1-1-002: 46.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.

DPP16Z-2.LW16

ORDINANCE 17-4

BILL 48 (2016)

A BILL FOR AN ORDINANCE

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

(br)


DATE OF INTRODUCTION:

AUG 8 2016

Honolulu, Hawaii

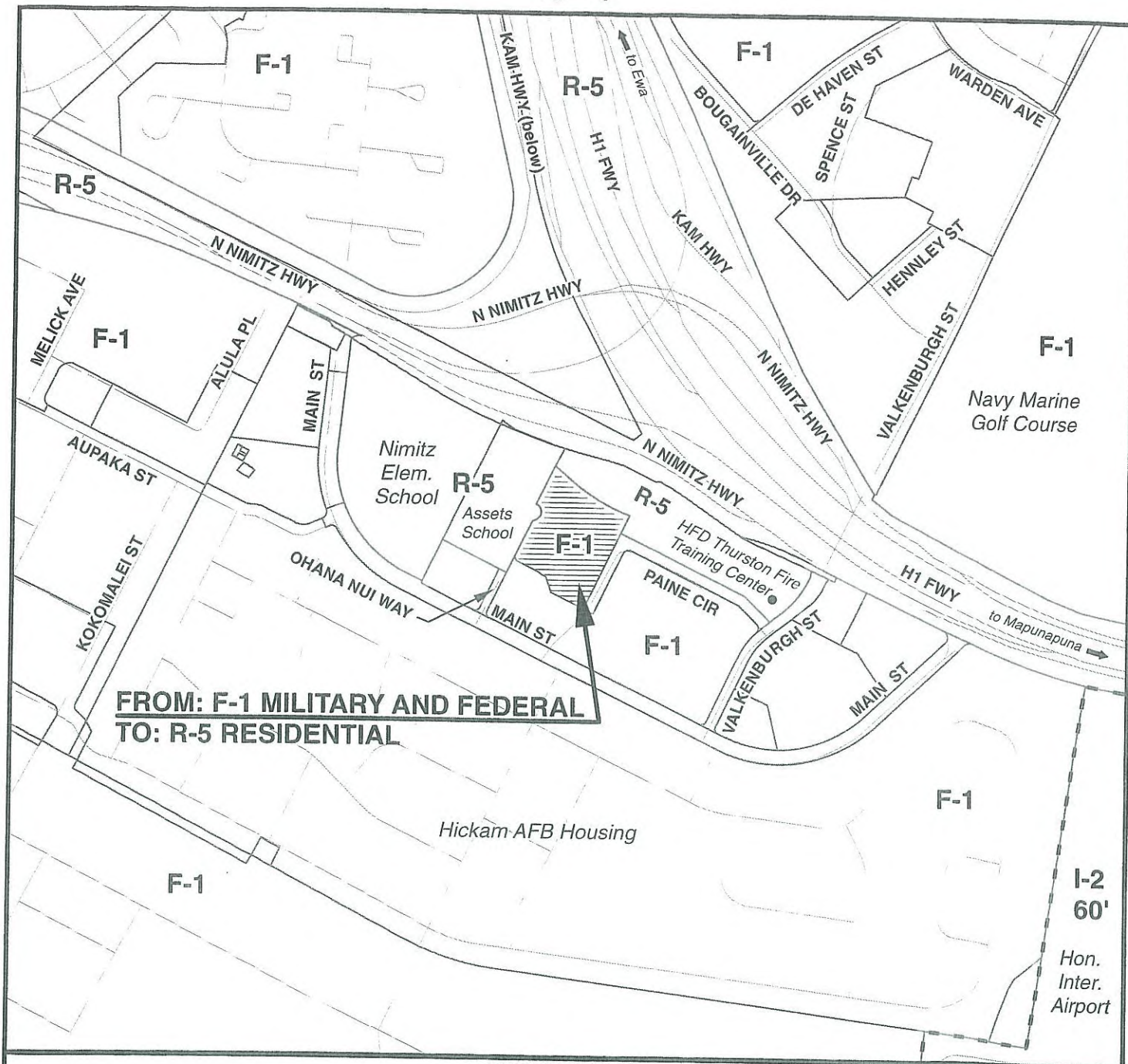
Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

APPROVED this 9th day of March, 20 17.

KIRK CALDWELL, Mayor
City and County of Honolulu



**FROM: F-1 MILITARY AND FEDERAL
TO: R-5 RESIDENTIAL**

**PORTION OF
EXISTING ZONING MAP # 6
(RED HILL - FORT SHAFTER)**

Land situated in the Ohana Nui area of Joint Base Pearl Harbor-Hickam (JBPHH), west of Honolulu International Airport, approximately 825 feet west from the intersection of Paine Circle and Valkenburgh Street @ 3950 Paine Circle.

APPLICANT:	TRINITY MISSIONARY BAPTIST CHURCH (TMBC)
APPLICANT TMK:	1-1-002: 046
FOLDER NO.:	2016/Z-2
TOTAL LAND AREA:	3.194 ACRES (APPROX.)
PREPARED BY:	DEPARTMENT OF PLANNING AND PERMITTING CITY AND COUNTY OF HONOLULU
PUBLIC HEARING:	PLANNING COMMISSION CITY COUNCIL

JUL 20 2016

JAN 25 2017

2016/Z-1

ORD. NO.: 17-4

EFF. DATE:

MAR 9 2017

EXHIBIT A



OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

DOCUMENT NO. _
DATE/TIME _ Doc T - 9913221
CT 1090403
February 21, 2017 10:45 AM

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (x) TO:

Trinity Missionary Baptist Church
3950 Paine Circle
Honolulu, Hawaii 96818

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for Conditional Zoning

PARTY(IES) TO DOCUMENT: Trinity Missionary Baptist Church

TAX MAP KEY NO. (1) 1-1-002:046

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 25 day of JANUARY, 2017, by Trinity Missionary Baptist Church, whose address is 3950 Paine Circle, Honolulu, Hawaii 96818 (hereinafter referred to as the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Moanalua, City and County of Honolulu, State of Hawaii, consisting of approximately 3.194 acres, described as Tax Map Key No. (1) 1-1-002:046, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to continue to operate and use the Land and the structures thereon for a church and church-related functions, including worship services, classes, meeting space, youth programs, child care, and administrative offices (the "Project"); and

WHEREAS, the City Council (the "Council") of the City and County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from the F-1 Military and Federal Preservation District to R-5 Residential District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 48 (2016), was held by the Council on January 25, 2017; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 65 that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance");

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. Affordable Housing. Prior to building permit approval for more than six residential dwelling units on the Land, the Declarant shall execute a binding agreement to participate in an affordable housing plan that is acceptable to the City Department of Planning and Permitting ("DPP"), in accordance with adopted rules. The agreement shall

provide for no less than 30 percent of the total number of dwelling units constructed to be affordable housing units.

2. Flight Operations Disclosure. The Declarant shall inform all prospective purchasers, lessees, renters, or residential occupants of the property of potential aircraft flight and airport activity and related impacts, including, but not limited to, noise, fumes, smokes, vibrations, and odors. The Declarant shall record the disclosure statement with the State of Hawaii Bureau of Conveyances or the State of Hawaii Land Court, or both, as appropriate, within 60 days from the effective date of the Rezoning Ordinance and provide a copy of the recorded document to the DPP for its records.
3. Compliance with Other Governmental Requirements. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that any future development of the Land complies with all applicable LUO and other governmental provisions and requirements, including but not limited to all rules and regulations relating to flight operations in airspace above properties located within airport areas.
4. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. The status report shall be submitted to the DPP by December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied, or as necessary.
5. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of the DPP shall inform the City Council and may seek civil enforcement or take appropriate action to terminate or stop any future development of the Land until applicable conditions are met, including but not limited to revoking any permits issued under this zoning and withholding issuance of other permits related to the Project. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

- A. As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.
- B. That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

- C. That the development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.
- D. That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

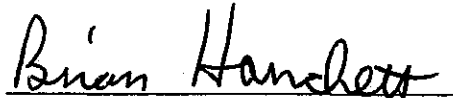
AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, the parties hereto have executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

DECLARANT:

Trinity Missionary Baptist Church

By:



Brian Hanchett

Project Manager

Trinity Missionary Baptist Church

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 16 day of February 2017, before me personally appeared
Brian Hanchett, to me personally known, who, being by me duly
sworn or affirmed, did say that such person executed the foregoing instrument as the free act and
deed of such person, and if applicable in the capacity shown, having been duly authorized to
execute such instrument in such capacity.



Carol A. Hoover
Name: Carol A. Hoover

Notary Public, State of Hawaii

My commission expires: September 19, 2017

(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Unilateral Agreement and Declaration for</u>
Conditional Zoning	
Document Date:	<u>February 16, 2017</u>
No. of Pages:	<u>6</u>
Jurisdiction (in which notarial act is performed):	
First Circuit	
Signature of Notary	<u>Carol A. Hoover</u> <u>February 16, 2017</u>
	Date of Notarization and Certification Statement
<u>Carol Hoover</u>	(Notary Stamp or Seal)
Printed Name of Notary	

EXHIBIT A

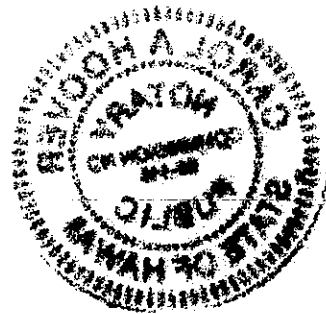
Property Description

All of that certain parcel of land situate at Moanalua, City and County of Honolulu, State of Hawaii, described as follows:

Lot 3937, consisting of approximately 3.194 acres, more or less, as shown on Map 747, as set forth in Land Court Order No. 188767 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application 1074, being the property covered by Certificate of Title No. 1090403 issued to the Trinity Missionary Baptist Church.

BEING the land conveyed to the Trinity Missionary Baptist Church by instrument dated December 29, 2014 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. T9130276.

TMK Oahu 1-1-002-046



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
C E R T I F I C A T E

ORDINANCE 17-4

BILL 48 (2016)

Introduced: 08/08/16

By: ERNEST MARTIN – BY REQUEST

Committee: ZONING AND HOUSING

Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII.

Voting Legend: * = Aye w/Reservations

09/07/16	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
11/02/16	COUNCIL	<u>M-2597</u> – APPROVED 120-DAY EXTENSION OF TIME. (DEADLINE: 11/03/16 + 120 DAYS) 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
01/04/17		<u>CC-7(17)</u> MENOR - BILL RE-REFERRED FROM COMMITTEE ON ZONING AND PLANNING TO COMMITTEE ON ZONING AND HOUSING.
01/14/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/19/17	ZONING AND HOUSING	CR-37(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
01/25/17	COUNCIL/PUBLIC HEARING	CR-37(17) ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. 1 ABSENT: OZAWA.
02/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/09/17	ZONING AND HOUSING	CR-65(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
02/22/17	COUNCIL	CR-65(17) ADOPTED AND BILL 48 (2016) PASSED THIRD READING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN I. TAKAHASHI, CITY CLERK


RON MENOR, CHAIR AND PRESIDING OFFICER